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April 9, 2021

The Honorable United States District Judge Analisa Torres
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312
Via ECF

Re: Jaquez v. Techny Advisors, LLC
Civil Action No.: 1:21-cv-00652-AT

To the Honorable District Judge Torres,

The undersigned represents the Plaintiff in the above referenced matter brought pursuant to the Americans with Disabilities Act (the ADA). On March 7, 2021, Defendant filed a request for a pre-Motion Conference so that it can file a Motion to Dismiss pursuant to FRCP 12. *See*, Docket 14. In response to Defendant's proposed Motion to Dismiss, Plaintiff intends to amend his Complaint as of right, pursuant to FRCP 15(a)(1)(B). It is Plaintiff's belief that the amendment will substantively resolve each of the various issues that Defendant seeks to brief in its proposed Motion to Dismiss.

Under FRCP 15(a)(1)(B), a party may amend its Complaint once as a matter of course, within 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. Defendant has not yet filed an Answer or a Rule 12 Motion, and it seems unlikely that the Defendant's request for a pre-motion conference would qualify as a responsive pleading or a Rule 12 Motion. As such, it would appear that Plaintiff is precluded from filing an Amended Complaint as of right, as of this time.

The parties have met and conferred on this issue, and have agreed to Stipulate to Plaintiff's amendment of the Complaint. Plaintiff is circulating that Stipulation for signature now, and anticipates filing that Stipulation shortly. Plaintiff will then file his Amended Complaint by April 30, 2021.

Respectfully submitted,

/s/ Yitzchak Zelman, Esq.